FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.2102 OF 2006

1) Kerba Balbhim Dhas)
2) Mahadeo @ Anna Namdeo Dhas)..Applicants
Versus
The State of Maharashtra)..Respondent

Mr.Shirish Gupte Sr.Advocate i/by V.V.Purwant for the applicants.

Mr.S.V.Kotwal for the Complainant.

Mr.P.S.Hingorani APP for the State.

Coram : R.S.Mohite,J

Date : 25.7.2006.

PC

1. This is an application for grant of bail. The 2 applicants are shown as accused in C.R.No.79/2005 registered by the Pangari police station, Solapur for alleged offences under Sections 302, 307, 325, 427, 147, 148, 149 and 506 of IPC. The prosecution case is that there were 2 political factions in village Dhass-Pimpalgaon, Taluka Barshi. One faction is of the Shiv sena party and other is from National Congress Party. The election of the gram panchayat was scheduled to be held on 23.10.2005. The prosecution case is that the 18 accused persons who were belonging to the Shivsena party went alongwith the other persons in the village to canvass for their candidates. They formed an unlawful assembly and went around threatening

and assaulting persons in the village in order to ensure that there would be a atmosphere of fear and that vote should be cast in favour of their candidates. The FIR was filed by one Rangnath Shyamrao Dhas which pertains to one of the 3 incidents, each of which took place at different locations in the village. In the FIR the first informant named 9 persons as the assailants. There was no mention in the FIR about the presence of any other person at the spot of the incident. It may be mentioned here that all these persons mentioned in the FIR had approached this Court for grant of bail in Criminal Application No.1380/2006 and Criminal Application No.1492/2006. Both these applications have been rejected on merits by Kanade,J on 21.4.2006. The present applicants however, were not named in the FIR filed by Rangnath Shyamrao Dhas. They have however, been named in his supplimentary statement dated 26.10.2005. In his supplimentary statement Rangnath Shyamrao Dhas has stated that 9 other persons who were part of an un-lawful assembly and were standing around with arms like sword, stump, pipes and other dangerous weapons. No specific overtact is attributed to this group who were standing around. It is noticed that on 26.10.2005 the police have recorded the statement of several other injured witnesses. It is only in these statements which are recorded 3 days after the incident that the present applicants are named. As far as overacts are concerned, one of the witnesses by name Appasaheb Namdeo Bhole has stated in

his statement dated 26.10.2005 that the present applicant no.2 hit him with a stick. Applicant no.1 is also said to have assaulted one Namdeo with a stick in the incident relating to the deceased. On perusing the medical certificate it is seen that very serious injuries in the nature of fractures have been caused on several of the injured persons. It is however, seen that apart from the incised wound upon the deceased all other injuries are caused by hard & blunt object only on the hands and legs. The fact that only hands & legs have been injured indicates the intention to cause terror in the village. There might have been only intention to cause grevious injuries but there may not have been intention to kill in the minds of each and every member of the assembly. One cannot lose sight of the fact that there are 2 factions in the village. Police have recorded the statements of all the witnesses 3 days after lodging of the FIR. In the circumstances, in so far as the present 2 applicants who were members of the 2nd group, I am inclined to grant them bail subject to imposing very strict conditions. Before passing the operative order, I may make it clear that very strict conditions of bail are imposed in this case because there is clear prima facie evidence that the present applicants are actively involved in the subversion of democracy. One of the condition is therefore, that they should be directed to stay out of Solapur district. In the circumstances, pending their trial in pursuance of C.R.No.79/2005

registered by the Pangari police station, the applicants may be released on bail in the sum of Rs.15,000/- each with one surety each in the like amount subject to the condition that they will stay out of Solapur district. Before being released on bail, they will furnish their addresses to the Jailor where they intend to stay and will report to the Station House Officer of the nearest police station once a week till the disposal of the trial. On being released on bail, they will also disclose their addresses to the investigating officer, Pangari police station within a period of one week from the date of release. They will be entitled to enter Solapur town only on the dates when the trial is listed for hearing and for the purpose of attending the trial but even on these dates, they will not enter Barshi taluka. It is clarified that these strict conditions are imposed not with standing the fact that one of the accused is said to be 70 years of age. The other objective of passing this order is also to grant protection to the witnesses who hail from the said village so that the witnesses may not be tampered. It is made clear that violation of any of the conditions would result to cancellation of bail. Application stands disposed off.

(R.S.Mohite,J)